

SENATE BILL No. 555

DIGEST OF INTRODUCED BILL

Citations Affected: IC 10-13-3; IC 11-10-4-2; IC 12-23; IC 12-26; IC 16-39-2-6; IC 33-23; IC 33-24-6-3; IC 35-36.

Synopsis: Sale of firearms to mentally ill persons. Requires the division of state court administration to establish and administer an electronic system for: (1) receiving information that relates to certain individuals who may be prohibited from possessing a firearm; and (2) transmitting this information to the Federal Bureau of Investigation for inclusion in the federal National Instant Criminal Background Check System (NICS). Allows the disclosure of certain mental health records to: (1) NICS or to the division of state court administration for transmittal to NICS; and (2) the Indiana data and communication system for transmittal to NICS. Provides that, if a court or the department of correction makes an adjudication or a finding concerning a person's mental health that may disqualify the person from possessing a firearm, the court or department of correction shall transmit certain information concerning the finding or adjudication to the division of state court administration for transmittal to NICS. Establishes a procedure by which a person who has been released from commitment or who has completed treatment may have the person's disqualification to possess a firearm removed, and establishes a procedure by which a person may petition the state police department to amend the person's criminal history to reflect that the person's conviction has been reversed, vacated, or set aside.

Effective: July 1, 2009.

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January 15, 2009, read first time and referred to Committee on Judiciary.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

SENATE BILL No. 555

A BILL FOR AN ACT to amend the Indiana Code concerning public safety.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 10-13-3-31 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 31. (a) Unless
3 otherwise prohibited by law, a criminal justice agency that maintains
4 criminal history data, upon request and proper identification of the
5 person about whom criminal history data is maintained, shall provide
6 that person with a copy of the person's criminal history data for a
7 reasonable fee.

8 (b) Any person may:

9 (1) challenge the information contained in the person's criminal
10 history data file; or

11 (2) **petition the department to amend the person's criminal**
12 **history data file to reflect that a conviction has been reversed,**
13 **vacated, or set aside.**

14 SECTION 2. IC 10-13-3-33 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 33. (a) The council
16 shall adopt rules under IC 4-22-2 to:

17 (1) assure the completeness and accuracy of criminal history data;

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- (2) protect information from loss, alteration, destruction, or improper direct access to the information files;
- (3) prevent unreasonable interference with the regular discharge of the duties of employees of law enforcement agencies; and
- (4) carry out this chapter.

(b) If a person makes a challenge **or files a petition to amend** under section 31(b) of this chapter, the department shall:

- (1) make the changes requested, if it determines the data is in error;
- (2) amend the person's criminal history data file, if it determines that the person's conviction has been reversed, vacated, or set aside; or**
- ~~(2)~~ **(3) conduct a hearing under IC 4-21.5-3, if requested by the person making the challenge or filing the petition to amend.**

(c) The rules adopted under this chapter must provide for inspection in a reasonable and timely manner.

SECTION 3. IC 11-10-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. **(a)** The department shall provide for the care and treatment of every confined offender who is determined to be mentally ill by a psychiatrist employed or retained by the department. To provide that care and treatment, the department may:

- (1) establish and operate its own mental health facilities and programs;
- (2) transfer offenders to the division of mental health and addiction, subject to the approval of the director of the division of mental health and addiction; or
- (3) contract with any city, county, state, or federal authority or with other public or private organizations for the provision of care and treatment.

(b) If a psychiatrist employed or retained by the department makes a finding under subsection (a), the department shall transmit a copy of the finding and any other information required by the division of state court administration to the division of state court administration for transmission to NICS (as defined in IC 35-47-2.5-2.5) in accordance with IC 33-24-6-3.

SECTION 4. IC 12-23-8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. **(a)** If the court determines that an individual is a drug abuser or an alcoholic and is likely to be rehabilitated through treatment, the court may do the following:

- (1) Place the individual on probation under IC 35-38-2 and under

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the supervision of the division for treatment.

(2) Require progress reports on the individual from the probation officer and the division that the court finds necessary.

(b) If the court makes a determination under subsection (a), the court shall transmit a copy of its determination and any other information required by the division of state court administration to the division of state court administration for transmission to NICS (as defined in IC 35-47-2.5-2.5) in accordance with IC 33-24-6-3.

SECTION 5. IC 12-23-14-20 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 20. If a court provides direct or indirect treatment or rehabilitation services to a person under section 4 or 5 of this chapter, the court shall transmit a copy of its order and any other information required by the division of state court administration to the division of state court administration for transmission to NICS (as defined in IC 35-47-2.5-2.5) in accordance with IC 33-24-6-3.**

SECTION 6. IC 12-23-14.5-18 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 18. If a drug court provides direct or indirect treatment or rehabilitation services to a person under section 4 of this chapter, the court shall transmit a copy of its order and any other information required by the division of state court administration to the division of state court administration for transmission to NICS (as defined in IC 35-47-2.5-2.5) in accordance with IC 33-24-6-3.**

SECTION 7. IC 12-26-6-8, AS AMENDED BY P.L.141-2006, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 8. (a) If, upon the completion of the hearing and consideration of the record, the court finds that the individual is mentally ill and either dangerous or gravely disabled, the court may order the individual to:**

(1) be committed to an appropriate facility; or

(2) enter an outpatient treatment program under IC 12-26-14 for a period of not more than ninety (90) days.

(b) The court's order must require that the superintendent of the facility or the attending physician file a treatment plan with the court within fifteen (15) days of the individual's admission to the facility under a commitment order.

(c) If the commitment ordered under subsection (a) is to a state institution administered by the division of mental health and addiction,

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the record of commitment proceedings must include a report from a community mental health center stating both of the following:

(1) That the community mental health center has evaluated the individual.

(2) That commitment to a state institution administered by the division of mental health and addiction under this chapter is appropriate.

(d) The physician who makes the statement required by section 2(c) of this chapter may be affiliated with the community mental health center that submits to the court the report required by subsection (c).

(e) If the commitment is of an adult to a research bed at Larue D. Carter Memorial Hospital as set forth in IC 12-21-2-3, the report from a community mental health center is not required.

(f) If a commitment ordered under subsection (a) is to a state institution administered by the division of disability and rehabilitative services, the record of commitment proceedings must include a report from a service coordinator employed by the division of disability and rehabilitative services stating that, based on a diagnostic assessment of the individual, commitment to a state institution administered by the division of disability and rehabilitative services under this chapter is appropriate.

(g) If the court makes a finding under subsection (a) (including a finding in reference to a child under IC 31-37-18-3), the court shall transmit a copy of its order and any other information required by the division of state court administration to the division of state court administration for transmission to NICS (as defined in IC 35-47-2.5-2.5) in accordance with IC 33-24-6-3.

SECTION 8. IC 12-26-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) If at the completion of the hearing and the consideration of the record an individual is found to be mentally ill and either dangerous or gravely disabled, the court may enter either of the following orders:

(1) For the individual's custody, care, or treatment, or continued custody, care, or treatment in an appropriate facility.

(2) For the individual to enter an outpatient therapy program under IC 12-26-14.

(b) An order entered under subsection (a) continues until any of the following occurs:

(1) The individual has been:

(A) discharged from the facility; or

(B) released from the therapy program.

(2) The court enters an order:

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(A) terminating the commitment; or

(B) releasing the individual from the therapy program.

(c) If the court makes a finding under subsection (a), the court shall transmit a copy of its order and any other information required by the division of state court administration to the division of state court administration for transmission to NICS (as defined in IC 35-47-2.5-2.5) in accordance with IC 33-24-6-3.

SECTION 9. IC 16-39-2-6, AS AMENDED BY P.L.1-2007, SECTION 136, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) Without the consent of the patient, the patient's mental health record may only be disclosed as follows:

(1) To individuals who meet the following conditions:

(A) Are employed by:

(i) the provider at the same facility or agency;

(ii) a managed care provider (as defined in IC 12-7-2-127(b)); or

(iii) a health care provider or mental health care provider, if the mental health records are needed to provide health care or mental health services to the patient.

(B) Are involved in the planning, provision, and monitoring of services.

(2) To the extent necessary to obtain payment for services rendered or other benefits to which the patient may be entitled, as provided in IC 16-39-5-3.

(3) To the patient's court appointed counsel and to the Indiana protection and advocacy services commission.

(4) For research conducted in accordance with IC 16-39-5-3 and the rules of the division of mental health and addiction, the rules of the division of disability and rehabilitative services, or the rules of the provider.

(5) To the division of mental health and addiction for the purpose of data collection, research, and monitoring managed care providers (as defined in IC 12-7-2-127(b)) who are operating under a contract with the division of mental health and addiction.

(6) To the extent necessary to make reports or give testimony required by the statutes pertaining to admissions, transfers, discharges, and guardianship proceedings.

(7) To a law enforcement agency if any of the following conditions are met:

(A) A patient escapes from a facility to which the patient is committed under IC 12-26.

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(B) The superintendent of the facility determines that failure to provide the information may result in bodily harm to the patient or another individual.

(C) A patient commits or threatens to commit a crime on facility premises or against facility personnel.

(D) A patient is in the custody of a law enforcement officer or agency for any reason and:

(i) the information to be released is limited to medications currently prescribed for the patient or to the patient's history of adverse medication reactions; and

(ii) the provider determines that the release of the medication information will assist in protecting the health, safety, or welfare of the patient.

Mental health records released under this clause must be maintained in confidence by the law enforcement agency receiving them.

(8) To a coroner or medical examiner, in the performance of the individual's duties.

(9) To a school in which the patient is enrolled if the superintendent of the facility determines that the information will assist the school in meeting educational needs of a person with a disability under 20 U.S.C. 1400 et seq.

(10) To the extent necessary to satisfy reporting requirements under the following statutes:

(A) IC 12-10-3-10.

(B) IC 12-24-17-5.

(C) IC 16-41-2-3.

(D) IC 31-25-3-2.

(E) IC 31-33-5-4.

(F) IC 34-30-16-2.

(G) IC 35-46-1-13.

(11) To the extent necessary to satisfy release of information requirements under the following statutes:

(A) IC 12-24-11-2.

(B) IC 12-24-12-3, IC 12-24-12-4, and IC 12-24-12-6.

(C) IC 12-26-11.

(12) To another health care provider in a health care emergency.

(13) For legitimate business purposes as described in IC 16-39-5-3.

(14) Under a court order under IC 16-39-3.

(15) With respect to records from a mental health or developmental disability facility, to the United States Secret

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Service if the following conditions are met:

(A) The request does not apply to alcohol or drug abuse records described in 42 U.S.C. 290dd-2 unless authorized by a court order under 42 U.S.C. 290dd-2(b)(2)(c).

(B) The request relates to the United States Secret Service's protective responsibility and investigative authority under 18 U.S.C. 3056, 18 U.S.C. 871, or 18 U.S.C. 879.

(C) The request specifies an individual patient.

(D) The director or superintendent of the facility determines that disclosure of the mental health record may be necessary to protect a person under the protection of the United States Secret Service from serious bodily injury or death.

(E) The United States Secret Service agrees to only use the mental health record information for investigative purposes and not disclose the information publicly.

(F) The mental health record information disclosed to the United States Secret Service includes only:

(i) the patient's name, age, and address;

(ii) the date of the patient's admission to or discharge from the facility; and

(iii) any information that indicates whether or not the patient has a history of violence or presents a danger to the person under protection.

(16) To the statewide waiver ombudsman established under IC 12-11-13, in the performance of the ombudsman's duties.

(17) To:

(A) NICS (as defined in IC 35-47-2.5-2.5) or to the division of state court administration for transmittal to NICS to meet the reporting requirements of 18 U.S.C. 921 et seq.; and

(B) the Indiana data and communications system (IDACS) under IC 10-13-3-35 for transmission to NICS.

Information disclosed under clause (B) may not retained or made available for retrieval except for compliance with an audit of the system by the Federal Bureau of Investigation.

(b) After information is disclosed under subsection (a)(15) and if the patient is evaluated to be dangerous, the records shall be interpreted in consultation with a licensed mental health professional on the staff of the United States Secret Service.

(c) A person who discloses information under subsection (a)(7) or (a)(15) in good faith is immune from civil and criminal liability.

SECTION 10. IC 33-23-1-9.5 IS ADDED TO THE INDIANA

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CODE AS A NEW SECTION TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2009]: **Sec. 9.5. "NICS" has the meaning set forth in IC 35-47-2.5-2.5.**

SECTION 11. IC 33-23-15 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 15. NICS Appeals

Sec. 1. This chapter applies to the following:

- (1) A person civilly committed under IC 12-26-6-8.
- (2) A person found to be mentally ill and either dangerous or gravely disabled under IC 12-26-7-5.
- (3) A person found guilty but mentally ill under IC 35-36-2-5.
- (4) A person found not responsible by reason of insanity under IC 35-36-2-4.
- (5) A person found incompetent to stand trial under IC 35-36-3-1.
- (6) A person found to be a drug abuser or an alcoholic under IC 12-23-8.
- (7) A person receiving treatment or rehabilitation services under IC 12-23-14.
- (8) A person receiving treatment or rehabilitation services from a drug court under IC 12-23-14.5.
- (9) A confined offender who is determined to be mentally ill by a psychiatrist employed or retained by the department of correction under IC 11-10-4.

Sec. 2. (a) If a person described in section 1 of this chapter:

- (1) has been released from commitment; or
- (2) successfully completes a treatment or rehabilitation program;

the person may petition the court (if the adjudication leading to the person's commitment, rehabilitation, or treatment program was from a court) or the department of correction (if the determination leading to the person's rehabilitation or treatment program was from a psychiatrist employed by or retained by the department of correction) to determine whether the person is prohibited from possessing a handgun because the person is not a proper person under IC 35-47-1-7(5) or IC 35-47-1-7(6).

(b) In determining whether the person is prohibited from possessing a handgun because the person is not a proper person under IC 35-47-1-7(5) or IC 35-47-1-7(6), the court or department of correction shall consider the following evidence:

- (1) The facts and circumstances leading to the person being

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1 included in the category of persons to whom this chapter
2 applies.

3 (2) The person's mental health and criminal history records.

4 (3) Evidence concerning the person's reputation, including the
5 testimony of character witnesses.

6 (4) A recent mental health evaluation.

7 (c) If the court or the department of correction, after
8 considering the evidence described in subsection (b), finds by clear
9 and convincing evidence that:

10 (1) the person is not a danger to the person or to others;

11 (2) the person is not likely to act in a manner dangerous to
12 public safety; and

13 (3) the requested relief would not be contrary to public
14 interest;

15 the court or department of correction shall transmit a copy of its
16 findings to the department of state court administration, and any
17 other information required by the division of state court
18 administration, for transmission to NICS in accordance with
19 IC 33-24-6-3.

20 (d) A determination under this section may be appealed only in
21 accordance with section 3 of this chapter.

22 **Sec. 3. (a) A person who receives an adverse decision under**
23 **section 2 of this chapter may seek review the decision by filing, not**
24 **later than thirty (30) days after receiving the adverse decision, an**
25 **action for review:**

26 (1) in the court of conviction, if the adverse decision was made
27 by the department of correction; or

28 (2) in a circuit or superior court in a county adjacent to the
29 county in which the court rendered the adverse decision, if the
30 adverse decision was made by a court.

31 (b) The court hearing an action for review filed under this
32 section shall conduct the review hearing de novo. The hearing shall
33 be conducted in accordance with section 2 of this chapter.

34 (c) The determination of a court under this section is a final
35 appealable order.

36 **SECTION 12. IC 33-24-6-3 IS AMENDED TO READ AS**
37 **FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The division of**
38 **state court administration shall do the following:**

39 (1) Examine the administrative and business methods and systems
40 employed in the offices of the clerks of court and other offices
41 related to and serving the courts and make recommendations for
42 necessary improvement.

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(2) Collect and compile statistical data and other information on the judicial work of the courts in Indiana. All justices of the supreme court, judges of the court of appeals, judges of all trial courts, and any city or town courts, whether having general or special jurisdiction, court clerks, court reporters, and other officers and employees of the courts shall, upon notice by the executive director and in compliance with procedures prescribed by the executive director, furnish the executive director the information as is requested concerning the nature and volume of judicial business. The information must include the following:

(A) The volume, condition, and type of business conducted by the courts.

(B) The methods of procedure in the courts.

(C) The work accomplished by the courts.

(D) The receipt and expenditure of public money by and for the operation of the courts.

(E) The methods of disposition or termination of cases.

(3) Prepare and publish reports, not less than one (1) or more than two (2) times per year, on the nature and volume of judicial work performed by the courts as determined by the information required in subdivision (2).

(4) Serve the judicial nominating commission and the judicial qualifications commission in the performance by the commissions of their statutory and constitutional functions.

(5) Administer the civil legal aid fund as required by IC 33-24-12.

(6) Administer the judicial technology and automation project fund established by section 12 of this chapter.

(7) Establish and administer an electronic system for receiving information that relates to certain individuals who may be prohibited from possessing a firearm and transmitting this information to the Federal Bureau of Investigation for inclusion in NICS.

(b) All forms to be used in gathering data must be approved by the supreme court and shall be distributed to all judges and clerks before the start of each period for which reports are required.

(c) The division may adopt rules to implement this section.

SECTION 13. IC 35-36-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) Whenever a defendant is found not responsible by reason of insanity at the time of the crime, the prosecuting attorney shall file a written petition with the court under IC 12-26-6-2(a)(3) or under IC 12-26-7. If a petition is filed under IC 12-26-6-2(a)(3), the court shall hold a commitment hearing

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1 under IC 12-26-6. If a petition is filed under IC 12-26-7, the court shall
2 hold a commitment hearing under IC 12-26-7.

3 (b) The hearing shall be conducted at the earliest opportunity after
4 the finding of not responsible by reason of insanity at the time of the
5 crime, and the defendant shall be detained in custody until the
6 completion of the hearing. The court may take judicial notice of
7 evidence introduced during the trial of the defendant and may call the
8 physicians appointed by the court to testify concerning whether the
9 defendant is currently mentally ill and dangerous or currently mentally
10 ill and gravely disabled, as those terms are defined by IC 12-7-2-96 and
11 IC 12-7-2-130(1). The court may subpoena any other persons with
12 knowledge concerning the issues presented at the hearing.

13 (c) The defendant has all the rights provided by the provisions of
14 IC 12-26 under which the petition against the defendant was filed. The
15 prosecuting attorney may cross-examine the witnesses and present
16 relevant evidence concerning the issues presented at the hearing.

17 (d) If a court orders an individual to be committed under IC 12-26-6
18 or IC 12-26-7 following a verdict of not responsible by reason of
19 insanity at the time of the crime, the superintendent of the facility to
20 which the individual is committed and the attending physician are
21 subject to the requirements of IC 12-26-15-1.

22 **(e) If a defendant is found not responsible by reason of insanity,**
23 **the court shall transmit a copy of the verdict and any other**
24 **information required by the division of state court administration**
25 **to the division of state court administration for transmission to**
26 **NICS (as defined in IC 35-47-2.5-2.5) in accordance with**
27 **IC 33-24-6-3.**

28 SECTION 14. IC 35-36-2-5, AS AMENDED BY P.L.99-2007,
29 SECTION 200, IS AMENDED TO READ AS FOLLOWS
30 [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) Except as provided by
31 subsection (e), whenever a defendant is found guilty but mentally ill at
32 the time of the crime or enters a plea to that effect that is accepted by
33 the court, the court shall sentence the defendant in the same manner as
34 a defendant found guilty of the offense.

35 (b) Before sentencing the defendant under subsection (a), the court
36 shall require the defendant to be evaluated by a physician licensed
37 under IC 25-22.5 who practices psychiatric medicine, a licensed
38 psychologist, or a community mental health center (as defined in
39 IC 12-7-2-38). However, the court may waive this requirement if the
40 defendant was evaluated by a physician licensed under IC 25-22.5 who
41 practices psychiatric medicine, a licensed psychologist, or a community
42 mental health center and the evaluation is contained in the record of the

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defendant's trial or plea agreement hearing.

(c) If a defendant who is found guilty but mentally ill at the time of the crime is committed to the department of correction, the defendant shall be further evaluated and then treated in such a manner as is psychiatrically indicated for the defendant's mental illness. Treatment may be provided by:

(1) the department of correction; or

(2) the division of mental health and addiction after transfer under IC 11-10-4.

(d) If a defendant who is found guilty but mentally ill at the time of the crime is placed on probation, the court may, in accordance with IC 35-38-2-2.3, require that the defendant undergo treatment.

(e) As used in this subsection, "individual with mental retardation" has the meaning set forth in IC 35-36-9-2. If a court determines under IC 35-36-9 that a defendant who is charged with a murder for which the state seeks a death sentence is an individual with mental retardation, the court shall sentence the defendant under IC 35-50-2-3(a).

(f) If a defendant is found guilty but mentally ill, the court shall transmit a copy of the verdict and any other information required by the division of state court administration to the division of state court administration for transmission to NICS (as defined in IC 35-47-2.5-2.5) in accordance with IC 33-24-6-3.

SECTION 15. IC 35-36-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) If at any time before the final submission of any criminal case to the court or the jury trying the case, the court has reasonable grounds for believing that the defendant lacks the ability to understand the proceedings and assist in the preparation of a defense, the court shall immediately fix a time for a hearing to determine whether the defendant has that ability. The court shall appoint two (2) or three (3) competent, disinterested:

(1) psychiatrists; or

(2) psychologists endorsed by the Indiana state board of examiners in psychology as health service providers in psychology.

At least one (1) of the individuals appointed under this subsection must be a psychiatrist. However, none may be an employee or a contractor of a state institution (as defined in IC 12-7-2-184). The individuals who are appointed shall examine the defendant and testify at the hearing as to whether the defendant can understand the proceedings and assist in the preparation of the defendant's defense.

(b) At the hearing, other evidence relevant to whether the defendant

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1 has the ability to understand the proceedings and assist in the
 2 preparation of the defendant's defense may be introduced. If the court
 3 finds that the defendant has the ability to understand the proceedings
 4 and assist in the preparation of the defendant's defense, the trial shall
 5 proceed. If the court finds that the defendant lacks this ability, it shall
 6 delay or continue the trial and order the defendant committed to the
 7 division of mental health and addiction. The division of mental health
 8 and addiction shall provide competency restoration services or enter
 9 into a contract for the provision of competency restoration services by
 10 a third party in the:

11 (1) location where the defendant currently resides; or

12 (2) least restrictive setting appropriate to the needs of the
 13 defendant and the safety of the defendant and others.

14 However, if the defendant is serving an unrelated executed sentence in
 15 the department of correction at the time the defendant is committed to
 16 the division of mental health and addiction under this section, the
 17 division of mental health and addiction shall provide competency
 18 restoration services or enter into a contract for the provision of
 19 competency restoration services by a third party at a department of
 20 correction facility agreed upon by the division of mental health and
 21 addiction or the third party contractor and the department of correction.

22 **(c) If the court makes a finding under subsection (b), the court**
 23 **shall transmit a copy of its order and any other information**
 24 **required by the division of state court administration to the**
 25 **division of state court administration for transmission to NICS (as**
 26 **defined in IC 35-47-2.5-2.5) in accordance with IC 33-24-6-3.**

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